

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION SUBCOMMITTEE MINUTES

May 23, 2007

**I.
ROLL CALL**

Present: Azevedo and Sandhu
Absent: Ciardella
Staff: Bejines, Lowe and Reliford

**1. "S" ZONE
APPROVAL
AMENDMENT
SA2007-24**

NO.

Kristine Lowe, Project Planner, presented a request to located a new 364 sq. ft. equipment enclosure constructed with 10'-6" cement plaster walls and installation of exterior equipment located at 1996 Tarob Court and recommended approval with conditions.

Motion to approve "S" Zone Approval Amendment No. SA2007-24 with special conditions.

M/S: Azevedo/Sandhu

AYES: 2

NOES: 0

II. ADJOURNMENT

The meeting was adjourned at 6:40 p.m.

**CITY OF MILPITAS
APPROVED**

PLANNING COMMISSION MINUTES

May 23, 2007

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Azevedo, Ali-Santosa, Ciardella, Mandal, Sandhu, Tabladillo and Williams
Absent: None
Staff: Bejines, Hom, Kunsman, Pio Roda, Whitecar and Reliford

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
May 9, 2007**

Chair Williams called for approval of the minutes of the Planning Commission meeting of May 9, 2007.

There were no changes to the minutes.

Motion to approve the minutes of May 9, 2007.

M/S: Sandhu/Azevedo

AYES: 7

NOES: 0

**V.
ANNOUNCEMENTS**

There were no announcements.

**VI.
CONFLICT
OF INTEREST**

Assistant City Attorney Pio Roda asked if the Commission has any personal or financial conflict of interest on tonight's agenda.

There were no Commissioners who identified a conflict of interest.

APPROVED
May 23, 2007

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff had no changes to the agenda.

Motion to approve the agenda as submitted.

M/S: Mandal/Azevedo

AYES: 7

NOES: 0

**VIII.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Felix Reliford, Principal Planner, requested that Item No. 2, Item No. 3, Item No. 5, Item No. 6 and Item No. 8 be added to the consent calendar.

Motion to add Agenda Item No. 2 (Use Permit No. UP2007-5 and "S" Zone Approval Amendment No. SA2007-5), Agenda Item No. 3 (Minor Tentative Map Amendment No. MM2007-1), Agenda Item No. 5 (Six-Month Review No. PR2007-1), Agenda Item No. 6 ("S" Zone Amendment No. SA2007-18 And Minor Tentative Map Amendment No. MM2007-2) and Agenda Item No. 8 (Ordinance Interpretation No. UD2007-2) to the consent calendar.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

Chair Williams opened the public hearing on Item No. 2.

There were no speakers from the audience.

Motion to close the public hearing on Item No. 2.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

Motion to approve Consent Item No. 2.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

Chair Williams opened the public hearing on Item No. 3.

There were no speakers from the audience.

Motion to close the public hearing on Item No. 3.

M/S: Tabladillo/Sandhu

AYES: 7

NOES: 0

Motion to approve Consent Item No. 3.

M/S: Azevedo/Sandhu

AYES: 7

NOES: 0

Chair Williams opened the public hearing on Item No. 5.

There were no speakers from the audience.

Motion to close the public hearing on Item No. 5.

M/S: Tabladillo/Ali-Santosa

AYES: 7

NOES: 0

Motion to approve Consent Item No. 5.

M/S: Azevedo/Ali-Santosa

AYES: 7

NOES: 0

Chair Williams opened the public hearing on Item No. 6.

There were no speakers from the audience.

Motion to close the public hearing on Item No. 6.

M/S: Mandal/Ciardella

AYES: 7

NOES: 0

Motion to approve Consent Item No. 6.

M/S: Azevedo/Ali-Santosa

AYES: 7

NOES: 0

Motion to approve Consent Item No. 8.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

- *2 USE PERMIT NO. UP2007-5 and "S" ZONE APPROVAL AMENDMENT NO. SA2007-5 (Continued from May 9, 2007):** A request for a new sign program, which includes installation of a new monument sign at the corner of McCarthy Boulevard and Sumac Drive for the SanDisk campus located at 601 McCarthy Boulevard (APN: 086-02-039) and 900 to 1100 Sumac Drive. *(Recommendation: Approve with Conditions)*
- *3 MINOR TENTATIVE MAP AMENDMENT NO. MM2007-1 (Continued from May 9, 2007):** A request to delete Condition No. 5 regarding underground of utilities for a previously approved two-lot subdivision located at 387 Rudyard. *(Recommendation: Approve with Conditions)*
- *5 SIX-MONTH REVIEW NO. PR2007-1:** A six-month review for Use Permit No. UP2004-42 and "S" Zone Amendment Approval No. SA2004-122 for a 24,000 square foot commercial badminton facility in an existing 48,000 square foot industrial building, located at 1191 Montague Expressway. *(Recommendation: Note Receipt and File)*
- *6 "S" ZONE AMENDMENT NO. SA2007-18 AND MINOR TENTATIVE MAP AMENDMENT NO. MM2007-2 (Continued from May 9, 2007):** A request to amend "S" Zone No. SZ2007-1 and Minor Tentative Map No. MI2007-2 special conditions of approval for Aspen Family Apartments, 101 affordable units located at 1666 South Main Street. *(Recommendation: Approve with Conditions)*
- *8 ORDINANCE INTERPRETATION NO. UD2007-2: Massage at the Great Mall:** A request to make an interpretation of the zoning ordinance to determine if partial massage is a permitted use in the C2 General Commercial zoning district. *(Recommendation: Determine that massage of shoulders and extremities, in a visible public environment, is a permitted use in the C2 zoning district)*

IX. PUBLIC HEARING

1. DETERMINATION OF INVESTIGATION AND SITE INSPECTION OF SOUTH MAIN STREET MOBILE HOME PARK BY COMMUNITY DEVELOPMENT MANAGER AND UPDATE ON STATUS OF SOUTH MAIN STREET MOBILE HOME PARK CONVERSION

Felix Reliford, Principal Planner presented a public hearing to determine actual vacancy status of the Main Street Mobile Home Park located at 1666 South Main Street. Pursuant to Milpitas Municipal Code XI-20-6.01, a statement was filed with the City stating that the vacancy of the Main Street Mobile Home Park was less than 85 percent. Mr. Reliford noted that staff has received one letter in opposition of the project. Mr. Reliford recommended that the Commission direct staff to bring the completed mobile home park conversion impact report back to the Planning Commission for review and recommendation to the City Council.

Martin Eichner, Project Sentinel, said the current owner has provided him with a list of residents who have left the mobile home park and he is working hard to get in touch with them. He said they have only found one of the people who have left and he has tried using free search engines to locate them. He said if they can't locate the previous tenants then he might have to resort to hiring a private investigator, which could cost several hundred dollars.

Commissioner Azevedo asked if staff has worked to keep the mobile home park. Mr. Reliford said the site has been rezoned to high density residential and the existing use is illegal non-conforming and does not comply with the Midtown Plan.

Commissioner Azevedo asked how did the Mobile Home Park get such a high vacancy rate? Mr. Reliford said that once residents found out that the property was sold, they started leaving. Mr. Reliford agreed with Mr. Eichner to search for the residents who have left so that they may be entitled to participate in the same program as the current residents.

Commissioner Sandhu was concerned that only one person was found within a six-month period. Mr. Reliford said the six-month period was to monitor the vacancy rate and most of the residents who left went on their own once they found out the property was going to be redeveloped.

Commissioner Sandhu asked how many residents have left and Mr. Eichner said 19 residents have left within the last year.

Commissioner Sandhu asked if the property owner will pay to search for those residents and Mr. Reliford said yes.

Vice Chair Mandal said it is great that the Midtown plan is bringing in new homes, however he felt that the City should still keep low-income housing. He asked if there are any bylaws that govern mobile homes? Mr. Reliford said he is not familiar with any bylaws.

Commissioner Tabladillo said it is disheartening that the City is losing a mobile home park to build high-density housing because it is displacing residents that have been living in Milpitas for a long time. She asked staff to take a look at existing projects and be able to provide current residents affordable homes somehow.

Mr. Reliford said there are currently four mobile home parks in the City. He said the City could look into the Sunnyhills area and pointed out that Aspen is building 101 affordable housing units. According to state law, units can only be designated for seniors, however staff would work with the developer and encourage preference for mobile home park residents.

Commissioner Tabladillo said this situation is challenging to any family and encouraged staff to think outside of the box.

Chair Williams asked if it is state law that the property owner be required to bear the expense of the search efforts. Assistant City Attorney Pio Roda said per Code Section 11-20-3.01 the applicant shall be entirely financially responsible for including but not limited to the housing specialist, the conversion impact report and all relocation costs.

Chair Williams asked if the property owner is in the audience and Mr. Reliford said yes.

Chair Williams introduced the property owner.

Peter Solar, Trammell Crow Residential, 1633 Lombard Street, San Francisco, CA, said he is available to answer any questions and assured the Commission and staff that this is a sensitive issue and he will work with the residents of Milpitas to the best of his ability. He said his company is hiring a non-profit group to work with the residents to make sure they are taken care of.

Chair Williams opened the public hearing.

Bob Shafer, Space #21, said during the last year and a half the residents have felt totally ignored and the property has not been well maintained and it has taken an emotional toll on them. He knows they will have to move however the residents have been in the dark about what is going to happen. He also heard that the property owners are looking for previous tenants however they have not communicated this with current residents.

Commissioner Azevedo asked if the mobile home park has an HOA and Mr. Shafer said no.

Commissioner Azevedo asked if the residents belong to Golden State Manufactured-Home Owners League (GSMOL) and Mr. Shafer said no.

Stefen Edmond, Space #3, said he has been living in the mobile home park for ten years now. He said the reason why the vacancy rate has exceeded 15% is because the owner has blocked off all the spaces and took off the vacancy signs and the manager has been told not to accept any more people.

Commissioner Azevedo advised Mr. Edmond that he should get organized and get the names of the people that have approached management to rent out the spaces.

Brendy Cruz, Space #42, said she moved in September and had a six-month contract. She said everybody is going to be relocated and they have nowhere to go. She is a retired city employee and cannot afford another place to rent and will basically be homeless.

Commissioner Mandal said the mobile home park is a close knit community and asked Ms. Cruz if she knows any of the people that have left. Ms. Cruz said she knows of one couple that moved to Truckee.

Chair Williams asked Ms. Cruz which City she retired from and Ms. Cruz said City of Milpitas.

Michelle Isaacs, Space #17, said she has lived in the mobile home park for six years now and it used to be a clean place. She said she knows of one person that she keeps in contact with that used to live there. She said it is very difficult to find affordable housing. She works at Home Depot and has been denied housing.

Melissa Gustinson, Space #41, has lived in the mobile home park for three years and has two kids. She said the place was nice when they moved in and everybody was nice because they paid attention to each other's kids like watching out for cars. She said now they are being treated unfairly and felt they shouldn't be put in this position. She said people are taking pictures of the children and looking at the residents like they are garbage.

Jason, Space #40, has lived in the mobile home park for three years, and he signed a six-month lease and now the property has been sold. He hasn't seen anything on paper just the information that he got from Mr. Reliford. He said the property has basically been sold underneath them. There are a lot of rumors going around and he felt that they have been left in the dark.

Keith, Space #10, said he has been a Milpitas resident for twenty years. Due to a divorce, he lost the house and had a bus converted to a mobile home. He has a daughter and will have no place to go once the new development is built.

Motion to close the public hearing.

M/S: Mandal/Sandhu

AYES: 7

NOES: 0

Chair Williams would like to add a condition that staff expand their search utilizing resources to reach out to former occupants as well as obtain any additional information needed to make a thorough search and compile necessary information to bring a resolution to help the residents to either keep them there or help relocate them.

Commissioner Tabladillo asked staff to work with Aspen to give the mobile home park residents a preference to live there.

Commissioner Tabladillo also requested that the park be properly maintained while the residents are going through this process and also wants to make sure that the timing does not impact the children while they are going to school because moving kids mid-year is a big interruption to the family.

Commissioner Azevedo does not think the 15% vacancy rate is accurate because it sounds like the manager is turning people away on purpose. He asked the Assistant City Attorney what leeway does the Commission have if any. Assistant City Attorney Pio Roda said there is a section in the 6code that requires staff to react when receiving a written notification. About six-months ago, the City received a letter from a resident that believed the vacancy rate was greater than 15%. Since that time, Mr. Reliford has conducted the study and investigation. Mr. Reliford and the Building Dept. investigated and validated the resident's statement that there is a 15% vacancy rate and that is what the purpose of tonight's meeting is about. He said staff has complied with the code.

Mr. Reliford said the City doesn't get involved until the 15% threshold is met. He said he did not want to get involved with any rumors or what was going to get built down there. He said it was hard to keep residents notified of what was going on because staff was monitoring the vacancy rate.

Assistant City Attorney Pio Roda said the Planning Director has the discretion to set a time limit, and if the conversion impact report is not completed within the time limit, it may be declared a public nuisance and then the Planning Director will be able to either finish the report that has been started or do a new report within the timeframe that is required and charge that time to the property owner. It is at the discretion of the Planning Director, the Commission could strongly urge the Planning Director to set a timeline that is stringent and reasonable.

Commissioner Tabladillo urged the Planning Director to do the timeline accordingly so that it is less of an impact to the community and to the children that are attending school.

Mr. Reliford said he envisions the project to take approximately 9 to 10 months, which will be about March or April of 2008 if the Commission decides that the conversion report is satisfactory and if the Council adopts it.

Commissioner Ciardella asked Mr. Reliford to explain the investigation process. Mr. Reliford said that the investigation took about six months. He said he doesn't think that the previous owner understood the process and now that Trammell Crow Residential is in the picture, they have hired attorneys who will complete the report and have a better understanding of the process.

Commissioner Ciardella asked Commissioner Azevedo to explain GSMOL. Commissioner Azevedo said he lives in a mobile home park and they are part of an HOA and are very organized. Their lease could be up in five years and they are actually trying to buy the park.

Vice Chair Mandal asked who will be maintaining the property while the conversion report is being completed? Mr. Reliford said it is the property owner's responsibility.

Mr. Eichner said that after the public hearing, he would like to talk to the residents outside of the Council Chambers to get in contact with the residents that have left.

Commissioner Azevedo said he is not going to support staff's recommendation because he felt that the property owner set up the 15% vacancy rate on purpose.

Commissioner Ali-Santosa asked about the resident who submitted the original report about the 15% vacancy rate. Mr. Reliford said that a resident named Michele sent the original letter and she is not in the audience.

Commissioner Ali-Santosa asked what is the property owner's obligation knowing that there are issues of the way the project has been handled. Mr. Eichner said from a fair housing point of view, the issue would be if they were using an illegal classification to make their decision. If they weren't renting to a certain class that would be a fair housing issue. If they refuse to rent at all, that is a business decision that would be subject to another scrutiny. He pointed out that there are mobile home parks closing in several cities and is a frequent issue in development in the bay area. The purpose of the involuntary 15% rule which is in every ordinance in every city, gives the City the right to step in and scrutinize what has happened, otherwise a owner can quietly close the park and do whatever they want with the property without being under obligation to provide relocation benefits.

Commissioner Ali-Santosa asked what could be done tonight. Assistant City Attorney Pio Roda echoed what Mr. Eichner said that if it was a discrimination issue that they were being denied housing based on class then that would be a problem however if it is a business decision, it would be less ability of the City to effect. He said staff has not been aware of any discrimination going on.

Chair Williams asked if the property owner is a resident of Milpitas and Mr. Reliford said no.

Commissioner Azevedo said he doesn't believe that the 15% vacancy rate is accurate because of what the public has said.

Assistant City Attorney Pio Roda said that if the Commission denies staff's recommendation, staff has already requested that a mobile home park conversion report be completed anyways, so this is a code requirement that staff is complying with that the Planning Director find that the 15% vacancy has been found and he holds a public hearing to validate it. At this time, the mobile home park conversion report based on the Planning Director's recommendation will still go forward because there is still a change in use of the property.

Mr. Reliford said at some point in time, the mobile home park will reach the 15% vacancy rate because the owner plans to develop and he is afraid this might prolong everything.

Commissioner Ciardella asked if the 15% vacancy rate is being achieved by not renting out the spaces. Mr. Reliford said that has been achieved by people leaving and the cat and mouse game was played with the previous owner not Trammell Crow.

Further discussion continued with the Commission.

Motion to deny staff's request to direct staff to bring the completed mobile home park conversion impact report back to the Planning Commission for review and recommendation to the City Council.

M/S: Azevedo/Ali-Santosa

AYES: 3 (Azevedo, Ali-Santosa and Sandhu)

NOES: 4 (Ciardella, Mandal, Tabladillo and Williams)

Motion to direct staff to bring the completed mobile home park conversion impact report back to the Planning Commission for review and recommendation to the City Council with the following special conditions:

- *For staff to expand their search utilizing resources to reach out to former occupants as well as obtain any additional information needed to make a thorough search and compile necessary information to bring a resolution to help the residents to either keep them there or help relocate them.*
- *For staff to work with Aspen to give the mobile home park residents a preference to live there.*
- *For staff to ensure that the park be properly maintained while the residents are going through this process.*
- *For the Planning Director to do the timeline accordingly so that it is less of an impact to the community and to the children that are attending school.*

Tabladillo/Williams

AYES: 4(Ciardella, Mandal, Tabladillo and Williams)

NOES: 3 (Azevedo, Ali-Santosa and Sandhu)

**2. "S" ZONE
APPROVAL
AMENDMENT
SA2007-22 NO.**

Cindy Hom, Project Planner, presented a request for various modifications including revised roof elevations, unenclosed stairways, new chimneys stacks, and landscape modifications to a previously approved mixed use development that consist of 93 residential units and approximately 2,633 square feet of commercial retail space located at 230 N. Main Street. Ms. Hom recommended approve with conditions.

Chair Williams asked when did the Planning Commission originally approve the project? Ms. Hom said the project was originally approved in 2003 and was last amended in 2005.

Chair Williams asked if staff reviewed the drawings in relationship to the original concept drawings. Ms. Hom staff reviewed the projects based on the last 2005 amended drawings.

Chair Williams recalled from the original concept, there was an additional retail component facing Main Street and asked how did that change to the current condition. Ms. Hom said from the last amendment, there was a reduction of 350 sq. ft. of the retail portion of the project however there is still an active retail corner, which corners the library and future Sr. housing project.

Vice Chair Mandal said according to the original architecture, there were two service areas proposed on each floor and now only one. Ms. Hom said staff's preference is for two service areas however given the building constraints, it is hard for them to find another location because they could potentially lose a unit, a bedroom, or a parking space.

Vice Chair Mandal felt it was a long way for somebody to go from one end to another end to take care of their trash and he strongly recommends two service areas. Ms. Hom said staff is proposing to evaluate the information that staff has provided with the utility engineering section and be consistent with what has been allowed with other multi-family residential projects. For instance, Aspen has one service area per floor for their project.

Vice Chair Mandal asked how does Aspen compare with Apton Plaza? Ms. Hom said the main difference is for the Aspen project, there is 8 units per floor and for Apton there is 30 units per floor and that is why staff has to evaluate the information that Apton has provided and to make the determination that if staff is going to allow the one chute that it can satisfy the trash capacity.

Vice Chair Mandal would like to add a condition that the applicant add two chutes instead of one.

Vice Chair Mandal asked if they will have a trash compactor and Ms. Hom said yes and it is located in the trash enclosure.

Commissioner Sandhu asked what will happen if staff determines that one trash compactor is not enough? Ms. Hom said then they will have to redesign the building to accommodate two.

Commissioner Sandhu agreed with Vice Chair Mandal to require the applicant to add two chutes now because it will be more difficult to do it later.

Chair Williams introduced the applicant.

Kurt Anderson, Architect, 2255 Bascom Avenue, Campbell, noted that this is the fourth time the project has been to the Commission. He said they are ready to pull their building permits and this is the last thing they need to do. The owner has spent a lot of time and money. The trash chutes have been a big deal and they would love to have two chutes. The existing code does not allow you to add an opening of a trash enclosure in an exit balcony or exit passageway. They worked with the building department trying alternative methods of construction. It was determined there is only one spot to put the trash enclosure because it is not in an exit passageway. He said there is another location where to put the trash enclosure however they would lose a bedroom or a parking stall, which the owner cannot afford to do. He said they have been working with a consultant with over twenty years of experience regarding trash collection. There will be a compactor at the bottom of the chute and it will not include recycling. At the bottom of the stairs in the garage, they will have 96 gallon recycle containers. There will also be another compactor for garbage and extra containers for recycling.

Chair Williams asked where will the retail stores dispose of their garbage? Mr. Anderson said the retail stores will have their own area outside of their spaces.

Chair Williams asked why was there a reduction in retail space? Mr. Anderson said there was a code issue and they had to provide an additional exit passageway through the garage and had to provide a trash compactor, which was originally not planned.

Chair Williams recalled that there was retail on the Main Street side and not on the Weller street side. Mr. Anderson said the frontage is pretty close to what it was before.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

Sandhu/Mandal

Ayes: 7

Noes: 0

Chair Williams said he hopes that the property owner will encourage the type of retail services that will best serve the residents of Milpitas.

Motion to approve "S" Zone Approval Amendment No. SA2007-22 with special conditions based on the findings in the staff report

Sandhu/Azevedo

Ayes: 7

Noes: 0

RECESS

The Planning Commissioners took a recess at 8:50 p.m.

The meeting resumed at 9:00 p.m.

3. GENERAL PLAN AMENDMENT NO. GM2006-1, MIDTOWN SPECIFIC PLAN AMENDMENT, ZONE CHANGE NO. ZC2006-1, SITE PLAN AND ARCHITECTURAL APPROVAL NO. SZ2006-5, MAJOR TENTATIVE MAP NO. MA2006-2 AND ENVIRONMENTAL IMPACT ASSESSMENT NO. EA2006-4

Felix Reliford, Principal Planner, presented a request to allow for the demolition of an existing industrial park and the construction of 368 podium and townhouse style residential condominium units, on-site surface and podium parking, recreational and open space facilities on 11.17 acres located at 1601-1765 South Main Street (APN: 086-21-073). The properties are proposed to be redesignated from Industrial Park to Multi-Family, Very High Density (31 to 40 dwelling units per acre) and rezoned from Industrial Park with "S" Zone Overlay District "MP-S" to Multi-Family, Very High Density with "S" Zone Overlay District "R4-S." A Supplemental EIR was prepared and circulated for this project.

Mr. Reliford recommended the Commission adopt a Resolution recommending approval of General Plan Amendment No. GM2006-1, Midtown Specific Plan Amendment and Zone Change No. ZC2006-1 to City Council. He also recommended the Commission approve Major Tentative Map. No. MA2006-2 based on the findings and recommended special conditions and adopt a Resolution recommending the certification of the supplemental Environmental Impact Report (Environmental Impact Assessment) No. EA2006-4 to City Council and approve Site Plan and Architectural Approval No. SZ2006-5 based on the findings and recommended special conditions.

Commissioner Ali-Santosa said he is concerned about receiving several e-mails from resident's last minute because he did not have enough time to review them and he asked staff for a better process.

Mr. Reliford said that as soon as staff receives an e-mail from a resident, they automatically send the e-mail to the Commissioner's home e-mail address. He assured the Commission that staff does not hang onto an e-mail for a long time without sending it out.

Chair Williams sympathizes with Commissioner Ali-Santosa about e-mails coming at the last moment.

Commissioner Sandhu said that he received an e-mail from the applicant to meet however due to his work schedule he couldn't meet and also received four e-mails forwarded to him from staff. He said Mr. Reliford mentioned in his report that there have been many meetings with the Pine Residents and asked if there was a positive outcome of it?

Mr. Reliford said he thought installing trees 18 months in advance to give them time to grow was a good idea.

Vice Chair Mandal also expressed that the applicant wanted to set up a meeting with him however he was unavailable because of work. He asked if this project was advertised in the Milpitas *Post* and Mr. Reliford said yes. The same notices that were mailed out on April 11th were mailed out again for tonight's hearing.

Vice Chair Mandal said he is concerned because he remembered more people attending the April 11th hearing.

Vice Chair Mandal asked if there was documentation for the meetings that were held between the property owner and the residents? Mr. Reliford said minutes were not taken however they try to come in agreement with the residents or meet somewhere in the middle.

Commissioner Azevedo asked if it is customary for the applicant to want to meet with all Commissioners or are they selective? Mr. Reliford said that it is usually customary that all Commissioners would be approached.

Chair Williams said he takes a personal policy that he does not meet with applicants at all.

Commissioner Ali-Santosa disclosed that he received a personal e-mail from Bob Armstrong.

Commissioner Tabladillo asked how many residents attended the community meeting and Mr. Reliford said between five and six.

Donna Vingo, Warmington Homes, said for the first community meeting in December 2006, there were 1,267 notices sent out inviting the neighbors and owners to discuss the project and there was about 40 people that showed up. They subsequently met with some of the neighbors who had issues, which was about two to three households.

Commissioner Tabladillo asked if the applicant had a community meeting between now and the April 11th meeting and Mr. Reliford said no.

Vice Chair Mandal clarified that it is always good to have input from residents.

Commissioner Azevedo asked why wasn't there another meeting? Mr. Reliford said with the several meetings the developer had with the residents, they felt that they were not going to be able to change the minds of the residents who were in opposition of the project, even after showing them several options.

Chair Williams asked if the City has defined a plan for relocating businesses?

Diana Whitecar, Economic Development Manager, said the City does not have a business retention plan in place with the City however it is part of the Economic Strategic Plan and it has been elevated for staff to create one. She said business retention plans are geared more towards the corporate outreach to existing businesses to understand their business plans for future expansion needs. She has been trying to put together for what other cities have done in regards to relocation efforts. Business relocation is different from residential relocation in regards to redevelopment and acquisition law.

Chair Williams asked how far along is staff with the business retention plan and Ms. Whitecar said about 20% along. Ms. Whitecar said the plan will incorporate the four recommendations that they currently have in terms of future developers when it comes forward and their existing businesses that they notify the businesses early on about what their plans are and that they work with them to help them find existing space in the City and she is not inclined to talk about financial assistance.

Chair Williams introduced the applicant.

Donna Vingo, 2010 Crow Canyon Place, San Ramon, Ca, presented her PowerPoint presentation about the Estrella project to the Commission.

Commissioner Tabladillo asked if opaque windows have the ability to be opened like a regular window? **Dominic Pieri, Vice President of Land Development, Warmington Homes,** said that is a call by the Building Department. Mr. Pieri said regarding the three different window options and the landscaping, he is willing to work with staff to come up with the best solution.

Commissioner Ciardella asked if the 24-inch box trees along the streets and the 15-gallon trees along the perimeter have changed. Ms. Vingo said they are complying with the Plan Line Study and will go with what the City has required.

Commissioner Ciardella said he would like to see the landscape plans come back to the Commission before he approves the project.

Vice Chair Mandal asked Warmington what experience do they have with mixed-use projects? Mr. Pieri said they have not done any mixed-use projects in Northern California and mainly do residential development. The plans that were presented tonight were done from another company.

Vice Chair Mandal said all the mixed-use scenarios that were shown tonight had negativity associated with it and asked staff to clarify. Mr. Reliford said that was the applicant's scenario from a marketing standpoint. The Midtown Specific Plan doesn't call for every residential project to have a mixed-use component to it.

Mr. Pieri said they took the current requirements and standards in place from the midtown specific plan and the South main Street plan line study. They looked at mixed-use commercial retail along this edge, the South Main Street Plan Line Study doesn't call for any on-street parking. The parking would have to be done all on-site and private parking takes up a huge amount of space. For commercial space, you look at accessibility and residents would have to make u-turns and it would not be feasible. He felt it is not pedestrian friendly on South Main Street.

Vice Chair Mandal asked how do you ensure that the HOA will upkeep the property? Mr. Pieri said those issues are covered in the CC&R's and can be addressed and the City reviews them.

Assistant City Attorney Pio Roda said the developer submits the CC&R's to the City for approval, and the City Attorney's office will make sure all of the conditions of approval are included.

Commissioner Ali-Santosa asked the applicant how they plan to mitigate noise from the future recreation area that will be facing the Pines residents? Mr. Pieri said that the pool guidelines and regulations will be included in the CC&R's and HOA guidelines.

Commissioner Ciardella asked what would happen if the HOA wants to amend the CC&R's? Assistant City Attorney Pio Roda said a condition of approval could be added where the HOA could not amend their conditions without coming back to the Commission.

Chair Williams opened the public hearing.

Philip Tuitt, 1756 Pinewood Court, lives directly adjacent to the Warmington property, said he is really concerned about privacy and quality of life. He said they received six copies of the notice of public hearing however he is disappointed that they did not find any changes to it. He said he felt left in the dark about what is going on. He felt that trees are nice but they are not going to cut it and that Warmington never committed to it. Regarding the raise windows, he never felt they were taken into consideration. He is also concerned that he will never see the sun in the morning. He is against the project.

Helen Tuitt, 1756 Pinewood Court, is very upset about the project and is against it. She said at the last meeting with Warmington Homes dismissed their ideas about raising the windows and said they could plant trees instead and felt that her concerns were not taken seriously. She started crying and felt that her privacy will be violated and felt that Warmington will not do anything about and said she will not feel comfortable with her future children playing in the backyard because everyone will stare at them.

Robert Armstrong, 1636 Fallen Leaf Drive, lives immediately adjacent to the Warmington property, said he received a public hearing notice two weeks ago and he immediately tried to find out what the proposed changes were however it wasn't until the previous Friday that he was able to review Warmington's letter and the staff report and that is why the Planning Commission received his opposition e-mail on Saturday. He said there are currently six projects under construction that will total over 1800 homes and felt there are enough homes already too attract a grocery store that will cater to current and future homeowners. He said the primary goal of the Midtown Plan is to encourage a compatible mixture of residential, retail and office/commercial service and industrial uses within the Midtown Area. He urged the Commission to vote against the project.

Deborah Norling, 1636 Fallen Leaf Drive, said it is ironic that Warmington is saying that they cannot build a mixed-use building because of parking concerns and at the same time saying they are encouraging a pedestrian friendly atmosphere. She said most of staff and the Warmington group does not live in Milpitas and does not understand the impact the project will have. She said there is only one bus that serves the area and runs once an hour on Sunday's. She said mixed-use is becoming important as gas prices rise. She said clogging the whole town with condos will make it a traffic corridor not a transit corridor. She asked the Commission to vote against the project.

Guy Haas, 1277 Fallen Leaf Drive, said there is not enough retail on the South Main Street end of town and felt that adding more residential will not solve the problem. He said the pass through between Estrella and the Pines will cause parking overflow and said he would like to see a condition that would add permit parking on the Pines side.

Don Peoples, 620 S. Main Street, said he is disappointed that nothing has changed with the Warmington project. He said this project does not implement the Midtown Plan and adjoining neighbors do not gain anything from it so it is an incompatible use. He said smart growth does not eliminate 400 jobs to build 400 jobs and felt it was dumb growth. He said there will be too much traffic in the area and is against the project.

John Jay, 542 S. Main Street, owns his own business and felt that the Midtown Plan is going to put him out of business. He said 20% of business owners who will be relocated would not survive. He said part of the Midtown Plan was not to change that area to residential and he urged the Commission to vote against the project.

Motion to close the public hearing.

Sandhu/Mandal

Ayes: 7

Noes: 0

Commissioner Ciardella asked if the opaque windows would work? Mr. Reliford said he would need to check with the Building Department on that.

Commissioner Sandhu said there is nothing new from the last proposal and will not be able to change his decision and will be voting against the project.

Commissioner Tabladillo said she hears what the residents are saying and also what the developers are saying that the project is not economically feasible to be able to do the mixed-use project. She felt there are too much condos in the area and she knows there is a need for additional affordable housing however she doesn't see any changes in the plans that will benefit Milpitas as a whole. There is an ability to look outside of the box and reflect the spirit of the Midtown plan. She encourage the applicant to look at mixed-use and is not going to vote in favor of the project.

Vice Chair Mandal asked what is the process for the Planning Commission to be able to change the zoning from the Midtown Plan? Mr. Reliford said that the Planning Commission is a land use advisory to the City Council and it is up to the Commission to make that decision.

Chair Williams said when the Midtown plan was developed, it was only supposed to be on Main street and then over a course of time, it encroached on Abel street. He said the purpose was to have Main Street be redeveloped like Castro Street in Mountain View and also address the housing needs and emphasis was on mixed-use.

Vice Chair Mandal said he is concerned that the Commission is changing the Midtown Specific plan and also losing established businesses for good. He is not in favor of the project.

Chair Williams said the applicant identified possible retail near the McCandless Business Park adjacent to the Great Mall. He is concerned that a lot of the businesses had been in communication about putting in a 45,000 sq. ft. grocery store however that has fallen through. He tries to follow the rules of the City by looking at the project logically and ethically without emotion and felt that the City is getting too residential happy. He hopes that the Commission in the future will make sure that future projects will be mixed-use and follow suit from City of San Jose and City of Fremont. He is also concerned about the different proposals from the applicant and their lack of communication with the residents and hope this could be resolved in the future to have a happy medium. He would also like the applicant to work with staff on the landscape plan regarding the size of the trees. He will not approve the project but is willing to be open about it if there is better dialogue between the applicants and the residents.

Commissioner Azevedo felt that the project should go back to the drawing board and that there be better communication between, staff, the applicant and the residents.

Motion to continue General Plan Amendment No. GM2006-1, Zone Change No. ZC2006-1, Site Plan and Architectural Approval No. SZ2006-5, Major Tentative Map No. MA2006-2 and Environmental Impact Assessment No. EA2006-4 indefinitely regarding all the reasons stated in the minutes.

Azevedo/Tabladillo

Ayes: 7

Noes: 0

Assistant City Attorney Pio Roda said the Planning Commission would have to have to give a recommendation to City Council whether to deny or accept the project as is because they are on a time limit with the Tentative Map and it needs to go to City Council.

Motion to deny General Plan Amendment No. GM2006-1, Midtown Specific Plan Amendment, Zone Change No. ZC2006-1, Site Plan and Architectural Approval No. SZ2006-5, Major Tentative Map No. MA2006-2 and Environmental Impact Assessment No. EA2006-4.

Azevedo/Tabladillo

Ayes: 7

Noes: 0

**X.
ADJOURNMENT**

The meeting was adjourned at 11:00 p.m. to the next regular meeting of June 13, 2007.

Respectfully Submitted,

Felix Reliford
Principal Planner

Veronica Bejines
Recording Secretary